

BEFORE THE ARBITRATOR

In the Matter of the Petition of

WISCONSIN PROFESSIONAL POLICE
ASSOCIATION/LAW ENFORCEMENT
EMPLOYEE RELATIONS DIVISION

For Final and Binding Arbitration
Involving Law Enforcement
Personnel in the Employ of

Case 297
No. 62145 MIA-2522
Decision No. 30945-A
Stanley H. Michelstetter II, Arbitrator

MARATHON COUNTY

Appearances:

Robert E. West, Consultant, appearing on behalf of the Association.

Ruder Ware, Attorneys at Law, by Dean R. Dietrich, appearing on behalf of the Employer.

INTEREST ARBITRATION AWARD

Wisconsin Professional Police Association/Law Enforcement Employee Relations Division, (herein "Association") having filed a petition to initiate interest arbitration pursuant to Section 111.77, Wis. Stats., with the Wisconsin Employment Relations Commission, herein "WERC", with respect to an impasse between it and Marathon County, herein referred to as the "Employer" with respect to a collective bargaining agreement for the period January 1, 2003 to December 31, 2005; and the WERC having appointed the Undersigned as the arbitrator to hear and decide the dispute specified below by an order dated September 29, 2004, and the Undersigned having held a hearing in Wausau, Wisconsin, on February 3, 2005; and each party having filed post-hearing briefs, the last of which was received April 23, 2005.

ISSUES

The parties' final offers form the issues in dispute. The parties did narrow the issues to those which were actually in dispute at the outset of the hearing. I summarize the issues in dispute as follows:

1. Wages: The Association proposes to increase the Detective I salary to equal the Deputy Sheriff V salary. The Employer proposed no change
2. Compensatory Time: The Association proposed to increase compensatory time accumulation to 67 hours. The Employer proposes no change in the statu quo.

3. Post Employment Health Plan: The Association proposed to increase the Employer contribution from the current \$12 to \$15 per pay period. The Employer proposes to keep the status quo.

4. Detective Scheduling: Article 11 of the parties's agreement states that the normal work week shall be 4 days at work followed by 2 days off work and the normal work day shall consist of 8 hours and twenty-five minutes, with officers required to report 15 minutes before the start of their scheduled work day. Those officers working a Monday through Friday work week normally work 8 hours. As to the detectives, the article only provides that the detectives' annual hours must equal the deputies annual hours (which is 2048.12 hours). The Employer proposes no change in the article. The right of the Employer to otherwise set hours for employees is a right reserved to the Employer in the management rights clause but is not specified in Article 11. The Association proposes to add the following language to Article 11:

“* * * *. General assignment and Juvenile assignment Detectives shall be, on the basis of Detective Seniority, assigned to one of the following shifts:

One General assignment Detective, one Juvenile assignment Detective and one General/Juvenile assignment Detective shall work a repeating schedule of five days on duty, followed by two days off duty (Monday through Friday, 8 AM. to 4 PM)

One General assignment Detective and one Juvenile assignment Detective shall work a repeating schedule of five days on duty (Monday thru Friday), followed by one day off duty (Saturday), followed by five days on duty (Sunday thru Thursday), followed by three days off duty (Friday thru Sunday). One General assignment Detective and one Juvenile assignment Detective shall work a repeating schedule of five days on duty (Tuesday thru Saturday), followed by one day off duty (Sunday), followed by five days on duty (Monday thru Friday), followed by five days on duty (Monday thru Friday), followed by three days off duty (Saturday thru Monday), Detectives assigned to this rotation, shall work one week of 8AM to 4 PM shift, followed by one week of the 1 PM to 9 PM shift.

Detectives assigned as Evidence Technician or Process Detective shall work a repeating schedule of five days on duty, followed by two days off duty. (Monday through Friday - 8 AM to 4 PM.)

In order to assure adequate availability of Detectives on weekends, one Detective will be required to be available on a “on call” basis for all weekend hours. This “on call” requirement will be rotated each week. Detectives shall be allowed, upon approval of the Detective Lieutenant, to switch their assigned “on call” weekend with another detective. Such approval shall not be unreasonably denied. Detectives shall be provided and utilize a pager or other appropriate communication devise (sic) and will be available for duty at all times while they are on call from 4 PM on Friday thru 8 AM Monday. Detectives shall be paid \$48, in addition to any compensation for actual hours worked, when assigned to weekend “on call” status. Detectives assigned to serve Process may be excluded from the “on call” assignment. The Individual Police

Vehicle (IPV) program shall continue.

5. Grievances: The Association proposed to withdraw grievances numbers 03-252, 03-253, 03-340, 03-397, and 03-470. The Employer has not responded to that position. The Association alleges that these grievances would become moot.

6. Special Activity Pay: The Association proposes to increase the payment earned in 2003 and 2004 and paid in February 2004 and 2005 from the current \$350 to \$375 per year and add Clandestine Lab and Computer Voice Stress Analyzer to the list of special activities.

POSITIONS OF THE PARTIES

The Association takes the position that the issues over its proposal to place shift schedules, hours of work, and call-in pay into the agreement are the central issues in this case. In its reply, the Association argues that the IPV program language is also a major issue. The Association notes that the set of comparable counties for external comparison purposes created by Arbitrator Malamud in 1986 is appropriate. They are the counties of Chippewa, Clark, Eau Claire, Langlade, Lincoln, Portage, Price, Shawano, Taylor, Waupaca, Wood, and the City of Wausau.

The Association argues that the choice in this matter is between unilateral control by the Employer of major aspects of the hours of employees, call-in requirements, shift rotation versus the establishment of collectively bargained terms to control these issues. While the Employer presented substantial testimony to justify its current practice, its proposal would allow continued unilateral change by the Employer. It notes that the Employer has indicated that it intends to review its current policies every thirty days. The Association also argues that its proposal takes into consideration the Employer's need for additional hours of coverage for more daily hours and Saturday coverage. The Association has also proposed what it considers to be a modest call-in pay provision of \$48 per weekend. The Association has used previous schedules to fashion its proposal for hours and shift rotations. The Association notes that there is a practice of permitting take-home vehicles for deputies and detectives. This is a significant benefit, but its terms are subject to the whim of the Employer. The Association asserts that the history of problems in this area is replete with unilateral changes, grievances and related problems. It notes that the evidence shows that the police vehicle program is a significant economic benefit for Detectives. The Employer has threatened to end this program to retaliate against employees. It relies heavily on internal comparables for the comparison principle. Specifically, it shows that the internal comparables all have language specifying the hours of work and other benefits. Similarly, the external comparables all have some language guaranteeing the hours of work. Most have provisions setting specific hours. Some merely protect the local current practice. In its view, the Association's offer is better than the Employer's because it insures the protection of employee interests.

In the Association's view, a quid pro quo is not necessary for its proposal since much of it

maintains the current practice and the remainder is merely meant to remediate the absence of basic contract language to cover mandatory subjects of bargaining.

The Association also notes that the agreed-upon salary increase is significantly less than that of comparable employers. This lower than average increase further justifies the Association's overall offer.

As to the secondary issues, the Association takes the following positions:

1. Detective I pay: The Employer had originally proposed to pay the Detective I more than the Deputy Sheriff V. The Association countered with the current proposal as a compromise. The Employer did not submit a proposal for any change. The Association believes that its offer is closer to what voluntary settlement might have been.
2. The Association notes that the non unit "telecommunications operators" (dispatchers) receive 67 hours of compensatory time in their agreement and the Association sees that approach as appropriate for the needs of this bargaining unit. Some supervisors in the Department are allowed 96 hours of accumulation. There is no uniformity of this subject in the internal comparisons, but the external comparisons support the Association's position.
3. The Association also believes its Special Activity pay proposal is necessary to maintain the benefit at the same level of that given supervisors. This benefit was the same for each in 2001-2. Its proposed additions of Clandestine Lab and Computer Voice are necessary to maintain morale for those assigned to those duties.
4. The Association argues that its proposed increase of \$3.00 per pay period for the PEHP plan is necessary to account for increasing costs of health insurance. The Association also argues that its proposal is supported by the weight of external comparables.

The Employer takes the position that this case involves the Association making a number of proposals, but offering "nothing" in return. The Employer acknowledges that it agrees with the Association on using the external comparability group established by Arbitrator Malamud. It argues that its offer is supported by the comparisons to other units of Marathon County and comparisons to similar units in the agreed-upon comparability group.

It notes that the Employer has a long history of consensus bargaining and has reached agreement on uniform increases across bargaining units for over 10 years. All of the other bargaining units accepted the same economic package as that proposed by the Employer here. Rewarding the Association for "holding out" will only frustrate the collective bargaining process here.

Next, the Employer argues that the Association has not justified its proposal about detective scheduling. It has not shown a need to change the status quo. Since it has not shown a

need, it has not shown that its proposal is reasonably related to making the change. Finally, the Association admits that it has not shown a quid pro quo for any change it proposes. It notes that the recent change in detective hours implemented by the Sheriff was to be able to provide better coverage for the additional hours. The Association's proposal would undo the recent change. It argues that the Association failed to show any problems with the hours change made in 2003. It argues the evidence shows that the change vastly improved response time and coverage. It argues that the Association's proposal to specify the number of people assigned to each shift prevents the Department from adjusting manpower to meet shifting needs. The Association's proposal to schedule detectives by seniority ignores the Employer's needs to schedule different detectives with different skills at the time they would be most effective. The proposal also could be construed to limit the Employer's ability to assign detectives new primary functions such as "gang detective" rather than to assignments listed in the proposal.

The Employer next argues that the proposal for call-in pay while keeping the police vehicle program is over-reaching. The Association's proposal does the following:

1. Changes the current practice of having all detectives wearing pagers to one in which only one detective carries a pager on weekends. The result is that there will be less coverage and the Employer will not be able to call-in the right detective with the right skills.
2. Require call-in pay in addition to the IPV program.

The call-in proposal changes the current method of call-ins on weekends. The Association has not offered a quid pro quo, nor has it shown that its proposal is necessary. The Association's proposal would prohibit the Employer from calling in the appropriate detective over the weekends. The Employer currently minimizes call-ins. In its view, the Association has shown neither that there is a problem with the current system or that its proposal is reasonably necessary to correct the problem. Further, the Association's proposal for standby pay of \$48 is not merited, because Detectives get a minimum of two hours pay if they are called in.

It notes that the Association is asking for call-in pay and to continue the IPV program. The IPV program is a major benefit in itself to deputies and is designed to replace the need for call-in pay.

As to the remaining items. The Employer argues that the Association has not shown any justification for increasing the Detective I salary and not offered a quid pro quo for its proposal. Similarly, it argues that the Association has not shown a need to increase the compensatory time accumulation, the Employer's contribution to the PEHP plan, or the special activity pay. It has not offered any quid pro quo for any of those changes. It argues that the arbitrator cannot accept the Association's proposal to withdraw certain grievances because it gives the Association two opportunities to win the same thing. The Employer believes it overall economic offer meets the CPI criteria and makes its entire total offer package more acceptable.

DISCUSSION

This is a “final offer” arbitration pursuant to Section 111.77, Wis. Stats. The arbitrator is to select the final offer of one party or the other, without modification. The arbitrator makes the decision as to which final offer is selected by applying statutory criterial specified in Section 111.70(6), Stats. The arbitrator has discretion to determine which of the issues in dispute are the most important and the relative weight to be given each of these standards.

In most arbitrations, the economic issues are the most important. The choice of offers in those cases usually depends on the comparison of the overall economic value of each party’s offer to the statutory criteria. The parties have resolved the economic issues in this case. The Employer costs the parties’ proposals as follows;

| | 2003 | 2004 | 2005 |
|-------------|---------|---------|---------|
| Employer | 3.4340% | 5.6049% | 3.4523% |
| Association | 3.7404% | 5.6532% | 3.4582% |

There are 47 active employees in the bargaining unit. Of these 7 are Detective 1's. It is the Association’s proposal with respect to a wage rate adjustment of Detective 1 which is mainly responsible for the difference. The offers of the parties are so close that I view the proposed changes to the collective bargaining language as discussed below as far more important to the parties than the minor difference in economic packages. This is true because both parties have recognized that the economic and efficiency impact of the issues with respect to detective hours and vehicles would be much larger than the small wage and benefit difference between the parties. Additionally, the testimony in this case indicates that the dispute over these items has led to what appears to be a breakdown in the ability of the parties to resolve those and similar issues. Accordingly, I will address the determinative issues and ignore the other minor wage and benefit issues.¹.

The Association has correctly identified the main areas of dispute between the parties’ final offers. These issue are the individual police vehicle program, deputy hours and call-in pay. A party proposing to change contract language ordinarily must show that circumstances have changed such that a change in the contract language is warranted and that its proposal is reasonably necessary to address the changes or problem which has occurred. Arbitrators have agreed that a party making a proposal may, in lieu of showing that circumstances have changed, offer an equivalent quid pro quo for the new proposal. They have disagreed as to other aspects of this doctrine. For example, they disagree as to whether a quid pro quo may be required in other circumstances. It is not necessary to elaborate on these differences in this case because the Association has demonstrated a sufficient change in circumstances for each of the determinative issues in dispute and the Association asserts that each of these proposals is intended to incorporate existing essential terms and conditions of employment into the agreement. I

¹I have used the set of external comparables the parties have agreed upon.

conclude that the Association is not required to make a showing of an equivalent quid pro quo for the determinative items in dispute.

Individual Police Vehicle Program (IPV)

1. Background Facts

The Employer has a program in which detectives may use an Employer police vehicle to drive to and from work. This program was started in about 1996. It benefits the Employer because employees can respond to a crime scene directly from their home without having to stop at the station to pick up a police vehicle. This improves the speed and quality of the response. The program is a benefit to employees who save about \$6,000 on commuting expenses. The IPV program comprises a major percentage of the detective bureau's (non-salary) operating budget. The program is voluntary. Those who participate are required to make themselves as available as possible for call-in. They are required to notify their superiors when they may be unavailable. Examples of unavailability would be; out of the county, potentially not fit for duty or other daily matters. Supervisors keep records of who is not available and those who are "unavailable" too often can expect to be terminated from the program. Detectives are not otherwise compensated for the extra measure of availability created by this program. The Sheriff also now requires that essentially all detectives wear pagers for possible call back. This program is separate from the IPV program. It appears that it was started after the IPV program. The Sheriff has instituted rules, much like those for the IPV program for detectives who are required to wear pagers. Those rules are discussed further in connection with the call-in pay proposal discussed below. The pager program makes it easier to contact employees, including those in the IPV program. The Sheriff included the pager requirement in the IPV program as well by memorandum dated March 11, 2003. During the term of the expiring agreements there were some differences between detectives and supervisors over the perceived failure of detectives to respond to pages. There were discussions which were perceived by the detectives as "threats" to terminate some or all of the detectives from the IPV program if they were not responsive "enough." I am satisfied that the threat of punishment is real. The Association responded to this with grievance numbers 03-253 and (later) 03-397. Employees who respond to a call-in are paid two hours of call-in pay if they report for duty after regular hours. This program appears to be unique among the external comparables.

2. Discussion

There are two statutory standards which I have applied to make a choice concerning this benefit; "interest and welfare of the public" and "other factors." The interest and welfare of the public are best served by using public police vehicles in the most efficient manner possible. The Association has shown a change in circumstances since the last agreement was negotiated. The Employer has instituted more efficient means of calling employees in with substantially more requirements of employees to provide information as to their status when off duty. It has applied substantial pressure for employees to respond, including, but not limited to, those in the IPV

program. This has resulted in at least one grievance and a substantial on-going dialogue between the parties during the term of the last agreement and during negotiations leading to the current impasse. There is heightened fear among employees, whether justified or not, that they might be involuntarily terminated from this valuable benefit. Accordingly, the Association has demonstrated a need for some language in the collective bargaining agreement to deal with those legitimate concerns.

The next question is whether the proposal of the Employer or that of the Association as it related to the IPV program is appropriate. The Association's stated reason for this proposal is to protect the employees' interest in the economic benefit and to prevent improper termination of the program. The Association's proposal goes too far. It could be read to prevent any significant legitimate change to the program and, thus, prevent the most efficient use of the vehicles. At the same time, it does not address the concerns of individual detectives who might be terminated from the program. The main concern is that the Employer might take an action to terminate the program or an individual's participation improperly. The record in this case shows that the Employer has had one situation in which it investigated and discussed problems with the employee who it perceived did not respond to call-in's properly. There is no evidence that the Employer's action was handled improperly. The public has an interest in insuring that decisions made under the IPV program remain correctly made solely in the interests of overall efficiency. This could have been handled, for example, by giving employees a right to grieve arbitrary actions in this program. Those are common provisions in collective bargaining agreements when dealing with this type of issue. Accordingly, the Employer's proposal is slightly closer to being appropriate under the facts as presented in this case.

Detectives Scheduling

1. Background

Article 11 came into existence during the negotiations leading to the 1989 collective bargaining agreement. There was a difference within the Association. Patrol officers and others sought the new "hours" language, but the detectives did not want to be included under the new hours provision. The parties agreed to leave the detectives out. It appears that the main reason that the detectives wanted to be excluded from the hours provision was that many were on advantageous schedules which had little or no weekend work

The provision has remained unchanged to this day. Article 11 does not significantly regulate detective hours. The Employer retains the right under the management rights provision to change the schedules and shifts of detectives. There are 10 detectives in the bargaining unit (1 Detective III, 2 Detective II's, 7 Detective I's). As discussed below, the evidence shows that there were a number of problems which developed during the expiring agreement and continued into the hiatus when that agreement expired. The Sheriff specifically made the following major changes in detective schedules. Detectives were working either a 5 on 1 off, 5 on 3 off schedule or a repeating 5-2 schedule. They were changed to most detectives working a 5-2, 5-3 schedule

with some on a 5-1, 5-3 schedule and one on a 5-2 schedule. This resulted in most detectives being required to work more weekends. Similarly, the hours of work for the second shift were changed from 1:00 p.m. to 9:00 p.m. to a 3:00 p.m.. to 11:00 p.m. shift. Almost all of the detectives who were working on the old schedules have left their positions, but it is unclear whether this was in any way related to the change. The Sheriff made this change to increase the availability of detectives at the times when demand was highest for their services. This decreased the number of hours the detectives worked to below that of the deputies. The Employer created an additional requirement for detectives to have 40 hours of training in addition to their normal schedule. This resolved the disparity. The Sheriff and supervisory staff presented the change in hours to the detectives on March 11, 2003. The Association's notes stated that the Sheriff presented the matter as "not negotiable." The Employer then notified the Association of the changes by letter dated April 11, 2003. That letter presented the position of the Employer that the Association was free to bargain the effects of the scheduled change in hours. There were many detectives who were unhappy with the effect the change of hours had upon their personal lives and their work. The Association filed a number of grievances protesting these changes. Those grievances are pending now and are the same ones the Association has offered to withdraw in its final offer.

2. Discussion

As I noted above, the party proposing to change contract language has the burden to show that the circumstances have changed such that new contract language is necessary and that its proposal is the most appropriate to address that need. The Employer's position in this case is that the existence of the unilateral right to change hours AND the change it made after the expiration of the agreement constitutes the "status quo" for which the Association must make the required showings. I agree that the Association has the obligation to show the need for a change in the current unilateral right of the Employer, but I do not accord "status quo" status to the change which the Employer made during the hiatus. The Association has alleged that the Employer's most recent exercise of that right was an abuse of the right. It is, therefore, seeking its proposed language to prevent further abuses. I have herein evaluated that change to determine if it was an abuse of the reserved right and, if so, whether the Association's proposal as warranted. For the purposes of the analysis, I do not accord the change made by the Employer the "status quo" status, but, rather, I have required the Employer to bear the burden of proceeding and persuasion that the exercise was a legitimate exercise of the reserved power.

The statutory factors controlling this decision are the public interest, external and internal comparability, and other factors. The bargaining history shows that the detectives intended to maintain their current schedules by not having language included in Article 11. They gave the Sheriff the discretion to make changes, but expected that few changes would ever be made. The history also shows that the detectives in this unit never expected the changes which ultimately did occur, but, instead, viewed their hours as vested. The evidence and testimony show a history of issues between the Employer and detectives of problems getting people to respond to call-ins, lack of coverage with the appropriate skills on weekends and attempts to remedy the problems

during the term of the expired agreement. At the same time, workloads were so heavy that even management viewed them as impossible for individual detectives to manage. The detectives (and the Association) sought additional pay for providing more coverage on weekends and for increased demands that they be available for call back. The problem solving process ultimately tended to end and the situation became more of a standoff. The result of the process is that the Sheriff asserted the right to change the schedules as has occurred and did so in the most cost-effective way for the Employer. The changes, however, resulted in less weekend time off for detectives, late night hours on the detectives' second shift, and more pressure over off-time responsibilities. The Employer offered no economic or time off quid pro quo for the changes it made. When the Employer finally presented its changes after the lengthy process, it presented them as "non negotiable."

I apply the comparison criterion. The parties have agreed upon the external comparability group. I note, as I have before, that the comparison criterion is to be applied not necessarily in a statistical way but by using the arbitrator's experience and judgment in collective bargaining taking into account the similar or unique circumstances of the parties in the specific case with those in the external or internal comparability group. The purpose of Sec. 111.77, Stats. is to foster voluntary resolution of local disputes with solutions applicable to the parties' own specific circumstances. The blind application of provisions in external or internal comparables without the use of sound collective bargaining judgment (as contemplated in factor (h)) may frustrate that process, particularly when the dispute deals with non-economic "language" issues. Marathon County is unique among its comparables. It is the largest law enforcement department in the areas. The department freely provides equipment and services to the smaller, more poorly equipped departments in the areas. This is particularly true in the case of detectives who have a variety of skills not found in other comparable departments. This must be considered when looking at internal comparability. The primary comparison, of course, is in the parties' own solution to the patrol scheduling contained in the current Article 11. The solution for those officers has apparently withstood the test of time. The record shows that there have been few major changes in hours for the detectives, but continuous small changes as the needs of the department have shifted. The ordinance for the Department's supervisors preserves much control to the Sheriff. I am satisfied from an examination of other comparisons and the specific history of the Marathon County Sheriff's department that some provision providing basic hours and schedules for detectives is warranted and could have been devised to preserve enough discretion to the Sheriff to meet the needs of the department.

The Employer has demonstrated that the change it made was a legitimate exercise of its right to schedule and necessary to meet the needs of the department and the public. Captain James Kujawa testified as to the changes that were made and the reasons they were made. The testimony was forthright and is credited. He stated in relevant part as follows. The detectives had heavy case loads which were unmanageable. They had many cases which went unsolved for lengthy periods. The Employer was considering refusing to take minor cases or otherwise cutting service. At the same time, the corrections and patrol divisions were complaining that there were no enough detectives available on weekends and at other high demand times. He noted that

particularly there were calls which were coming in between the 9 p.m. to 11 p.m. time when there were no detectives regularly scheduled. He noted that when the Sheriff implemented the changes which were made, detectives were present to address cases as they came in, case loads declined and were addressed in a more timely fashion. The Department increased detective coverage from 13 to 15 hours per day. The result was a much more efficient department. He also noted that the Sheriff made some minor changes in assignments. For example, one general/juvenile detective was cross trained to do evidence technician work half time. The Employer has met its burden to show that the change it made was a legitimate exercise of the reserved management right in the interests of the public and the department itself.

The Association proposed language rolls back the scheduling change to that in existence before. It also rolls back the change in the second shift's hours. The Employer's proposal with respect to these changes is closer to appropriate because it preserves the increased efficiency. The primary objective of changing back to 5-1, 5-3, is to increase the number of weekends that detectives have off. The Association's proposal is also supported by a strong public interest. The interest of the public is to foster strong family ties and emotional health in detectives who the Employer admits face high stress jobs. Nonetheless, law enforcement necessarily involves seven days of coverage and the Association has not demonstrated any other reason as to why the detectives should be off weekends as much as they were. There is some merit in the Association's selection of shifts by seniority; however, the use of strict seniority in shift selection may interfere with the Employer's needs to have detectives with the proper skills on each shift. The Association's proposal also unnecessarily creates questions as to whether the Employer has to maintain manning at certain levels and skills.

I make a special note here about the Association's proposal for additional pay for weekend work is worthy of consideration. The public interest may be in having additional compensation to reward the additional stress placed on family life by the Employer's changes.

On-Call

The Association has proposed that only one detective be scheduled to be on call on weekends. It has also proposed that the detective who is on call for the weekend be paid \$48 on-call pay. This issue is primarily governed by the public interest criterion. The Employer has established a legitimate management interest in requiring all detectives to wear pagers. It cannot predict the specific problems which will occur. Limiting the on-call process to just one detective may make it difficult for the Employer to get the detectives with the specific skills needed to deal with a situation which occurs on a weekend. It benefits all of the fellow employees and the public to have the right people at the scene of an incident as promptly as possible. Again, the public interest is also served by encouraging the off time family lives of detectives. The Employer, itself, concedes that its detectives have operated under very high stress. The Employer has argued that it has considered the family life concerns by reducing the times employee are called in. This certainly is in the interest of the Employer in saving overtime costs. Nonetheless, it has instituted very rigorous requirements for detectives to continually keep the

Employer informed of their availability for call-in. It has relied upon the alleged lack of comparability to oppose the Association's stand-by proposal. However, the Association has demonstrated that the Employer has been callous with detectives privacy and off time by instituting its rigorous notification requirements. The better view is that some stand-by pay is appropriate for detectives not involved in the IPV program for wearing pagers. It is not necessary to address the amount, because the Employer's proposal is closer to the one which is appropriate at this time.

Compensatory Time

The compensatory time proposal is a minor issue. However, as noted, the evidence is that detectives particularly have been placed in a position in which their enjoyment of their off time has been significantly lessened. The Employer admits that for the most part detectives have responded well when called-in. The Employer has attempted to minimize actual call-ins, but it has substantially increased the number of times that off-duty detectives have to report in. The small expansion of the compensatory maximum would be in the public interest to insure that the employees be able to maximize best use of their off time. It is a small step in maintaining "world class" morale while delivering "world class" service.

Summary

Accordingly, I have concluded that there is substantial merit in the proposals of the Association; however, the Employer's proposal more closely meets the statutory criteria. Accordingly, the Employer's final offer is selected.

AWARD

That the final offer of the Employer be incorporated into the parties' agreement.

Dated at Milwaukee, Wisconsin, this 17th day of May 2005.

Stanley H. Michelstetter II, Arbitrator